



## CITY OF DULUTH

Planning Division

411 W 1<sup>st</sup> St, Rm 208 \* Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

### STAFF REPORT

<b>File Number</b>	PL 15-008	<b>Contact</b>	Jenn Reed Moses, jmoses@duluthmn.gov	
<b>Application Type</b>	Vacation of Street Easement	<b>Planning Commission Date</b>	February 10, 2015	
<b>Deadline for Action</b>	<b>Application Date</b>	January 8, 2015	<b>60 Days</b>	March 9, 2015
	<b>Date Extension Letter Mailed</b>	January 16, 2015	<b>120 Days</b>	May 8, 2015
<b>Location of Subject</b>	28 W 2nd Street			
<b>Applicant</b>	Jim Holmgren, (218) 722-8170	<b>Contact</b>	jimh@northlandcompanies.com	
<b>Agent</b>	Jody Anderson, (218) 722-2626	<b>Contact</b>	janderson@dsgw.com	
<b>Legal Description</b>	PIDs 010-0960-00560, 010-0960-00550, 010-0960-00530, 010-0960-00510, 00490			
<b>Site Visit Date</b>	N/A	<b>Sign Notice Date</b>	January 27, 2015	
<b>Neighbor Letter Date</b>	January 21, 2015	<b>Number of Letters Sent</b>	35	

#### Proposal

Proposal to vacate a "no build" easement ranging from 4.5 to 8.2 feet along W 2nd Street between Lake Avenue and 1st Avenue W.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
<b>Subject</b>	F-5	Mixed Use	Central Business Secondary
<b>North</b>	F-5	Mixed Use	Central Business Secondary
<b>South</b>	F-8	Mixed Use	Central Business Primary
<b>East</b>	F-5	Mixed Use	Central Business Secondary
<b>West</b>	F-5	Mixed Use	Central Business Secondary

#### Summary of Code Requirements (reference section with a brief description):

Vacation of public rights of way and/or easements require a Planning Commission public hearing with a recommendation to City Council. City Council action is to approve or deny by resolution. Resolutions approving either a full or partial vacation require a 6/9's vote of the council.

Code requirements are found in UDC Section 50-37.6. The Planning Commission shall review the proposed vacation, and council shall approve the proposed vacation, or approve it with modifications, if it determines that the street, highway, or easement proposed for vacation:

- 1.) Is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient supply of utilities or public services in the city;
- 2.) Where the street terminates at a waterfront or shoreline, the street is not and will not be needed to provide pedestrian or recreational access to the water;
- 3.) Is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.

III. 4-1

**Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):**

Governing Principle #1: Reuse previously developed lands.  
Governing Principle #7: Create and maintain connectivity.

Future Land Use - Central Business Secondary: An area adjacent to and supporting the primary central business area or a stand-alone area providing a similar mix of destination land uses but at a lower intensity than the primary CB area. Includes mixed regional and neighborhood retail, employment centers, public spaces, medium density residential, and public parking facilities.

**Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):**

Staff finds that:

- 1.) The easement covers the front 4.5 feet of Lot 16 and the front 8.2 feet of Lots 2, 4, 6, 8, 10, 12, and 14. It stipulates that no buildings or structures are allowed within the easement. This easement can not be used for any street, utility, or pedestrian purposes; it is strictly a "no build" easement. The easement appears to have been on the property for quite some time, and could have been related to 2nd Street's former role as a component of the state highway system.
- 2.) In modern zoning practice, regulations such as setbacks and, for form districts, build-to zones govern structures' placement on a lot. No build easements are not needed for this purpose.
- 3.) This right of way is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient supply of utilities or public services in the City; the right of way is not and will not be needed to provide pedestrian or recreational access to the water; and the public right of way is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.
- 4.) City Engineering has stated the vacation and utility easement are acceptable. One inquiry was received from a citizen. No other public, agency, or City comments have been received.
- 5.) Vacations of streets lapse unless a plat showing the vacation is recorded with the county recorder within 90 days after final approval. The Duluth City Clerk facilitates the recording process, after City Council approval.

**Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):**

Based on the above findings, Staff recommends that Planning Commission recommend approval of the vacation of the no build easement, subject to the following condition:

- 1.) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

**Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)**

H-2

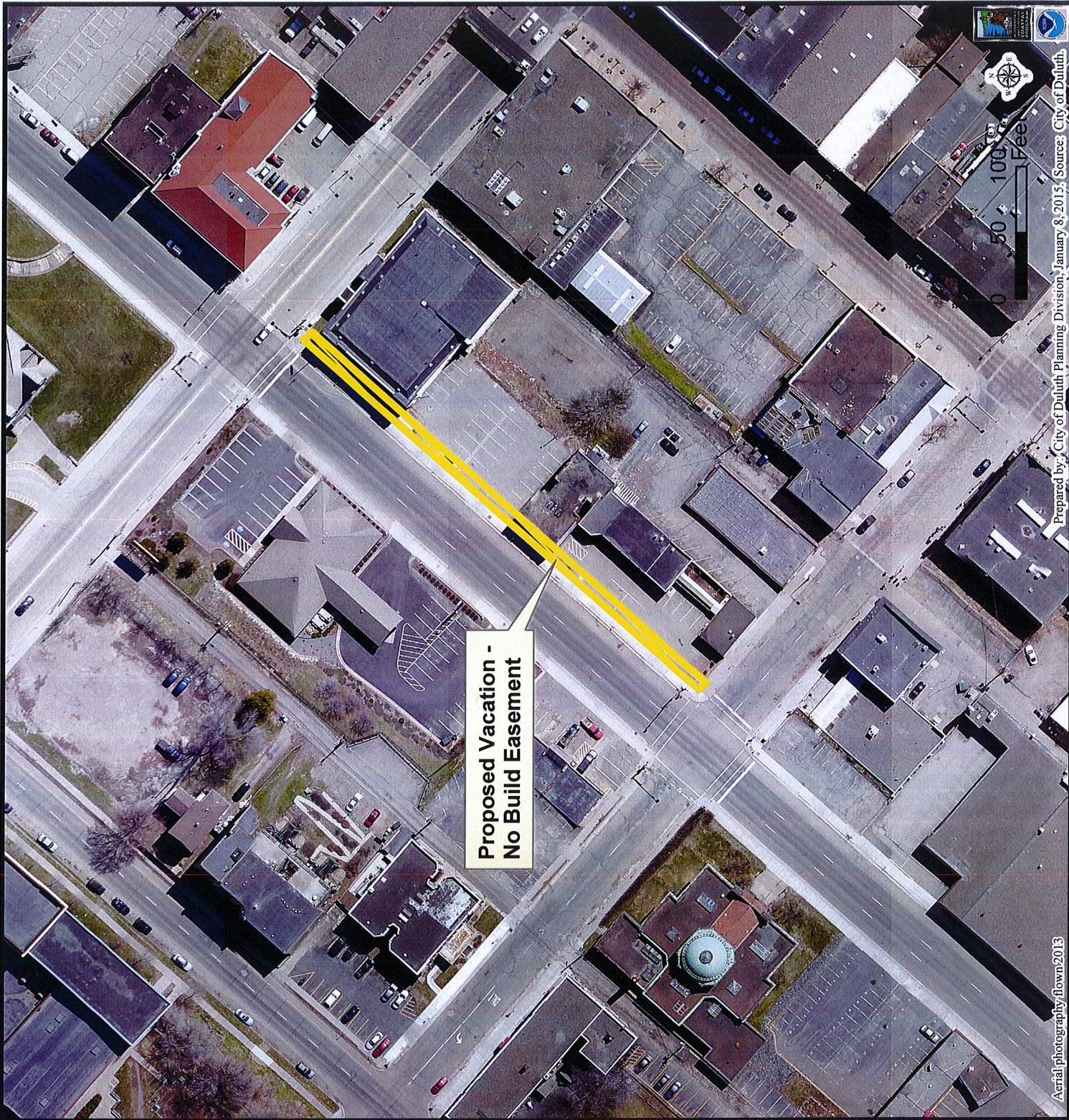


**City Planning**  
PL 15-008  
Vacation  
28 W 2nd St

## Legend

- Trout Stream (GPS)
- Other Stream (GPS)
- Zoning Boundaries
- ROW\_STATUS**
  - Vacated ROW
- Right-of-Way Type**
  - Road or Alley ROW
- Easement Type**
  - Utility Easement
  - Other Easement
- Floodplain (UDC)**
  - General Flood Plain
  - Flood Way
  - Flood Fringe
- Shoreland (UDC)**
  - Cold Water
  - Natural Environment
  - General Development
- Titleholder (6 class)**
  - Tax Forfeited
  - City
  - School
  - County
  - State
  - Federal

The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.



Aerial photography flown 2013

Prepared by: City of Duluth Planning Division, January 8, 2015 / Source: City of Duluth.

# LEGAL DESCRIPTION OF VACATION OF NO BUILD EASEMENT

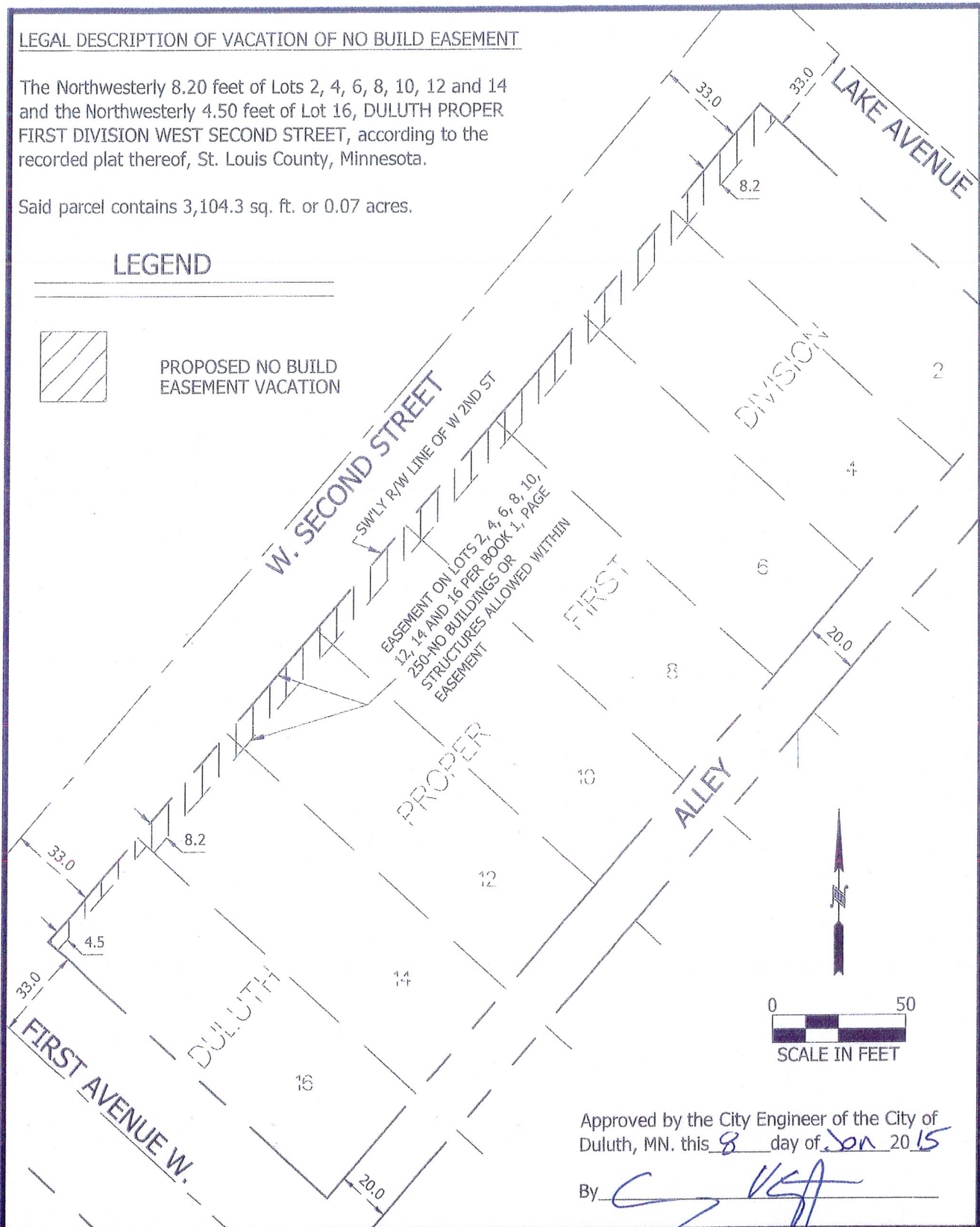
The Northwestern 8.20 feet of Lots 2, 4, 6, 8, 10, 12 and 14 and the Northwestern 4.50 feet of Lot 16, DULUTH PROPER FIRST DIVISION WEST SECOND STREET, according to the recorded plat thereof, St. Louis County, Minnesota.

Said parcel contains 3,104.3 sq. ft. or 0.07 acres.

## LEGEND



PROPOSED NO BUILD  
EASEMENT VACATION



Approved by the City Engineer of the City of  
Duluth, MN. this 8 day of Jan 2015

By [Signature]

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Date: 1-7-15

David R. Evanson

David R. Evanson MN License No. 49505

## VACATION EXHIBIT FOR NO BUILD EASEMENT

CLIENT: **NORTHLAND  
CONSTRUCTORS**

DATE: 1-7-15

ADDRESS: XXX

JOB NUMBER: 14-414 A

REVISIONS: XXX



LAND SURVEY COMPANY

\* LAND SURVEYING  
\* LAND DEVELOPMENT  
\* PLATTING  
\* LEGAL DESCRIPTIONS  
\* CONSTRUCTION STAKING  
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RECEIVED JAN 08 2015

H-4



Print Date: 02/04/2015  
Image Date: 05/12/2013  
Level: Neighborhood

H-5